

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TYRONE MCDUFFIE,

Plaintiff,

**MEMORANDUM & ORDER**

22-CV-5297 (EK) (SJB)

-against-

SGT. CHARLES SENAT, *a Police Officer  
from the New York City Police  
Department, in his Individual and  
Official capacity, et al.,*

Defendants.

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ERIC KOMITEE, United States District Judge:

The Court has received Magistrate Judge Sanket  
Bulsara's *sua sponte* Report and Recommendation ("R&R") dated  
February 14, 2023. Docket Order dated Feb. 14, 2023. Judge  
Bulsara recommends that I dismiss this action against Defendants  
Sgt. Charles Senat, P.O. Shenique Rosario, Several Unknown  
Officers from the New York City Police Department, and Several  
Unknown Security Officers from Resorts World Casino New York  
City without prejudice, pursuant to Federal Rule of Civil  
Procedure 4(m), for Plaintiff's failure to timely serve the  
defendants with the complaint and a summons. No party has filed  
objections, and the time to do so has expired. Accordingly, the  
Court reviews Judge Bulsara's recommendation for clear error on  
the face of the record. See Fed. R. Civ. P. 72(b) advisory

committee's note to 1983 addition; accord *State Farm Mut. Auto. Ins. Co. v. Grafman*, 968 F. Supp. 2d 480, 481 (E.D.N.Y. 2013).

Having reviewed the record, I find no clear error and therefore adopt the R&R in its entirety, with one clarification. The R&R does not explicitly recommend dismissal of the action as to Defendant Resorts World Casino New York City. Because Plaintiff has similarly omitted to provide proof that the complaint and a summons were served on Resorts World Casino New York City, the action must also be dismissed as to this defendant. See Fed. R. Civ. P. 4(m).

The complaint is therefore dismissed without prejudice. If Plaintiff wishes to continue to prosecute the action, he may refile the action anew and pay the filing fee again. The Clerk of Court is respectfully directed to enter judgment and close this case.

SO ORDERED.

/s/ Eric Komitee  
ERIC KOMITEE  
United States District Judge

Dated: June 2, 2023  
Brooklyn, New York